



PUBLIC NOTICE

Federal Communications Commission
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DA 11-2037
Released: December 20, 2011

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF
HYPERCUBE TELECOM, LLC FROM HYPERCUBE, LLC TO
RUBIK ACQUISITION COMPANY, LLC**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 11-198

Comments Due: January 3, 2012
Reply Comments Due: January 10, 2012

On December 1, 2011, HyperCube Telecom, LLC (HyperCube), HyperCube, LLC (Parent) and Rubik Acquisition Company, LLC (Rubik) (collectively, Applicants) filed an application pursuant to section 63.04 of the Commission's rules¹ to transfer control of HyperCube and Parent to Rubik.

HyperCube, a Delaware limited liability company, is a wholly-owned subsidiary of Parent. HyperCube provides competitive wholesale local and national tandem switching and transport services, termination services, toll-free origination services, and Direct Inbound Dial services across leased lines to telecommunications and information service providers throughout the United States.² HyperCube operates its own network equipment, but does not own fiber, IRUs or other transmission facilities.

Rubik, a Delaware limited liability company, is a wholly-owned subsidiary of West Corporation (West) and was created for the specific purpose of acquiring HyperCube. Through its subsidiaries, West provides primarily non-regulated service, including conferencing and other meeting replacement services, alerts and notification services, emergency communications services, automated call processing, interconnected VoIP services, and agent-based services such as inbound customer care, customer

¹ 47 C.F.R § 63.04; *see* 47 U.S.C. § 214. Applicants also filed an application for transfer of control associated with authorizations for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other pending applications. Applicants filed a supplement to the application on December 12, 2011.

² HyperCube currently provides services in the following 43 states and the District of Columbia: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

acquisition and retention, and collection of receivables, in the U.S. as well as in Europe, Asia, and other regions of North America.³

The following individuals or entities hold a direct 10 percent or greater ownership interest in West: Funds of Thomas H. Lee (approximately 60 percent)⁴; Gary L. West (U.S. citizen, 12.5 percent); Mary E. West (U.S. citizen, 12.5 percent); The Quadrangle Group (Quadrangle, 12.5 percent).⁵ Through Quadrangle, West is affiliated with four rural incumbent local exchange carriers (LECs) operating in the cities of Waynesboro and Covington, Virginia, in Virginia's Alleghany, Augusta and Botetourt counties, and in Hilton Head Island, Hardeeville, Jasper and Bluffton, South Carolina.⁶ Although HyperCube provides services in these areas, Applicants state that HyperCube provides no telephone exchange service or exchange access service at this time in these markets, and that HyperCube terminates traffic for its customers only through HyperCube's interconnections with other carriers in these markets.

The transaction involves the purchase by Rubik of all of the membership interests in Parent. Specifically, Rubik will acquire all of the membership interests in Parent directly from the individuals or entities currently holding those interests, with the exception of Annex Holdings HC Corporation (Annex), which holds 26.06 percent of Parent. With respect to Annex, Rubik will acquire all of the equity of Annex, and after the closing, Annex will remain a wholly-owned subsidiary of Rubik and will continue to hold its interest in HyperCube. Applicants state that after the proposed transaction, there will be no loss or impairment of service for any customers, and that a grant of the application will serve the public

³ West operates through the following groups of subsidiaries: Intrado Inc. is a U.S. entity that provides 911-related services in the U.S., and its subsidiary provides telecommunications services in Florida, Nevada, North Carolina, Pennsylvania, Vermont and Virginia. InterCall, Inc. is a U.S. entity that delivers advanced audio, event, web and video conferencing solutions throughout the U.S. West Communications, Inc. d/b/a Smoothstone is a U.S. entity that primarily provides interconnected VoIP services to business customers in the following 42 states plus the District of Columbia: Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin.

⁴ Voting or investment control over securities that the Thomas H. Lee Funds own are acted upon by a majority vote of the following members, all of whom are U.S. citizens: Todd M. Abbrecht, Charles A. Brizius, Anthony J. DiNovi, Thomas M. Hagerty, Scott L. Jaeckel, Seth W. Lawry, Soren L. Oberg, Scott A. Schoen, Scott M. Sperling and Kent R. Weldon.

⁵ Voting or investment control over securities that Quadrangle owns are acted upon by an investment committee consisting of the following U.S. citizens: Michael A. Huber, Peter R. Ezersky, Steven Felsher, and Puneet Gulati. Quadrangle's current investments include the following companies that provide domestic telecommunications services: Hargray Telephone Company, Inc. (ILEC operating in Hilton Head, Hardeeville and Jasper, SC); Bluffton Tel. Co. Inc. (rural ILEC operating in Bluffton, SC); Hargray of Georgia, Inc. (CLEC operating in GA); Hargray, Inc. (CLEC operating in SC); Low Country Carriers, Inc. (d/b/a Hargray Long Distance, a toll reseller operating in GA and SC); Mercury Voice and Data, LLC (CLEC operating in AZ and MO); Cebridge Telecom CA, LLC (CLEC operating in CA); Cebridge Telecom LA, LLC (CLEC operating in LA); Cebridge Telecom MO, LLC (CLEC operating in MO); Cebridge Telecom NC, LLC (CLEC operating in NC); Cebridge Telecom OK, LLC (CLEC operating in OK); Cebridge Telecom TX, LLC (CLEC operating in TX); Cebridge Telecom WV, LLC (CLEC operating in WV); TCA Communications, LLC (IXC operating in various states); NTELOS Telephone Inc. (ILEC operating in Waynesboro and Covington, and portions of Augusta and Alleghany Counties, VA); Roanoke and Botetourt Telephone Company (ILEC operating in Botetourt County, VA, including in the towns of Troutville, Daleville and Fincastle); NTELOS Network Inc. (CLEC operating in VA); NTELOS of West Virginia (CLEC operating in WV); FiberNet, L.L.C. (CLEC operating in WV, KY and MD); FiberNet of Ohio, LLC (CLEC operating in OH); FiberNet Telecommunications of Pennsylvania, LLC (CLEC operating in PA); and FiberNet of Virginia, Inc. (CLEC operating in Virginia).

⁶ See *supra* n.5 for a list of Quadrangle's incumbent LEC affiliates..

interest, convenience and necessity. Applicants request streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules.⁷ Because this transaction is more complex than usual, in order to analyze whether the proposed transaction would serve the public interest, this application will not be streamlined.⁸

Domestic Section 214 Application Filed for the Transfer of Control of HyperCube, LLC and HyperCube Telecom, LLC to Rubik Acquisition Company, LLC, WC Docket No. 11-198 (filed December 1, 2011).

GENERAL INFORMATION

The application referenced herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file comments **on or before January 3, 2012**, and reply comments **on or before January 10, 2012**. All filings concerning matters referenced in this Public Notice should refer to **DA 11-2037** and **WC Docket No. 11-198**.

Under the Commission's procedures for the submission of filings and other documents,⁹ submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

⁷ 47 C.F.R. § 63.03(b)(2)(i).

⁸ 47 C.F.R. § 63.03(b), (c)(1)(v).

⁹ See *Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, 16 FCC Rcd 21483 (2001); see also *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, 16 FCC Rcd 22165 (2001); *Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media*, Public Notice, 18 FCC Rcd 16705 (2003).

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In addition, e-mail one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 4) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 5) Christopher Sova, Competition Policy Division, Wireline Competition Bureau, christopher.sova@fcc.gov;
- 6) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

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For further information, please contact Tracey Wilson at (202) 418-1394 or Christopher Sova at (202) 418-1868.